



Economic Impact Analysis Virginia Department of Planning and Budget

23 VAC 10-210-693 – Government Contractors
Department of Taxation
May 23, 2008

Summary of the Proposed Amendments to Regulation

Pursuant to Item 268 of Chapter 3, 2006 Acts of Assembly, the Department of Taxation proposes to promulgate the new interpretation of the “true object” test as it applies to retail sales and use tax liability of government contractors. Proposed changes have been in effect since July 2006 under the legislative language. Also, an emergency regulation has been in effect since July 2007.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Pursuant to Item 268 of Chapter 3, 2006 Acts of Assembly, the Department of Taxation (Department) proposes to promulgate the new interpretation of the “true object” test as it applies to retail sales and use tax liability of government contractors. Prior to this legislative change, Department had made taxability determinations regarding the true object of the transaction based upon the true object of the underlying contract between the government entity and the contractor. The General Assembly mandated in 2006 that the department make its taxability determinations based upon the true object of each separate “work order”, “statement of work” and “task order.”

The legislation further mandated promulgation of emergency regulations to illustrate how the taxability determinations shall be made. The proposed regulations are permanent replacement regulations for the existing emergency regulations.

While the 2006 legislative change likely had reduced sales and use tax revenues significantly, the economic effects of the legislative action cannot be attributed to this proposed regulatory action.

Also, emergency regulations have been in effect since July 2007. Thus, the benefits associated with clarification of the legislative intent have already been present and no significant immediate economic effect is expected upon promulgation of the proposed regulations.

Businesses and Entities Affected

The proposed regulations apply to government contractors doing business in Virginia. According to a 2001 Fiscal Impact Statement prepared by the Department approximately 3500 federal contractors are estimated to be doing business in Virginia in 1999.

Localities Particularly Affected

The proposed regulations apply throughout the Commonwealth.

Projected Impact on Employment

No significant impact on employment is expected.

Effects on the Use and Value of Private Property

No significant impact on the use and value of private property is expected.

Small Businesses: Costs and Other Effects

No significant costs and other effects on small businesses is expected.

Small Businesses: Alternative Method that Minimizes Adverse Impact

No adverse impact on small businesses is expected.

Real Estate Development Costs

No adverse impact on real estate development costs is expected.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities

to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.